

Message Text

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ACTION L-03

INFO OCT-01 EUR-12 ISO-00 JUSE-00 SS-15 PM-05 CIAE-00
INR-10 NSAE-00 NSC-05 DODE-00 EB-08 /059 W
-----031851 011321Z /47

R 011155Z AUG 78
FM USMISSION USBERLIN
TO SECSTATE WASHDC 7391
INFO AMEMBASSY BONN

C O N F I D E N T I A L SECTION 1 OF 2 USBERLIN 1813

E.O.11652: GDS
TAGS: PGOV, AKB
SUBJECT: SEIZURE AND CONFISCATION OF US ORIGIN MAIL BY BERLIN POSTAL
AUTHORITIES

REF: (A) STATE 185588, (B) USBERLIN 1387, (C) USBERLIN 1630

1. FOLLOWING ARE ANSWERS TO QUESTIONS POSED REFTEL A.

2. Q: IS EACH SECTOR ORDINANCE IDENTICAL?
A: YES.

3. Q: IS THERE A ROUTINE SEIZURE OF ANY OTHER KIND OF MAIL
BY GERMAN AUTHORITIES PURSUANT TO ALLIED LEGISLATION?
A: NO. THE POST OFFICE DOES, FROM TIME TO TIME, CONFISCATE
ILLEGAL WEAPONS, DRUGS, AND OTHER DANGEROUS ITEMS, BUT THIS
IS USUALLY DONE ONLY WHEN THE CONTENTS ARE VISIBLE DUE TO DAMAGE
TO THE PACKAGE, OR WHEN A SPECIFIC TIP HAS BEEN GIVEN TO THE
CUSTOMS SERVICE/POLICE. ON 3 MAY 73, THE USCOB CHIEF OF STAFF
DIRECTED SOFO (THEN DETACHMENT E) TO START SCREENING PACKAGES
IN THE CIVIL POSTAL CHANNELS IN THE US SECTOR, BUT THIS
PRACTICE WAS NEVER DONE ROUTINELY AND CERTAINLY HAS NOT
BEEN ACCOMPLISHED SINCE THE REVISION OF THE SOFO GUIDE-
LINES IN OCTOBER 1974.

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4. Q: IF THE GERMAN AUTHORITIES FAIL TO INTERCEPT MAIL
COVERED BY SECTOR ORDINANCE 501, WOULD ALLIES OR SECTOR
COMMANDANT BE RESPONSIBLE FOR ENFORCING IT?
A: YES. HOWEVER, MISSION IS SOMEWHAT CONFUSED BY THE
QUESTION. IT CAN BE SAID THAT ALLIES, AS SUPREME AUTH-
ORITY IN BERLIN, ARE ULTIMATELY RESPONSIBLE FOR THE
ENFORCEMENT OF ALL LAWS, REGULATIONS, ETC. IN FORCE IN

BERLIN WHETHER THEY BE ALLED, GERMAN OR FOUR-POWER IN
ORIGIN. THE GERMAN AUTHORITIES CUSTOMARILY ENFORCE ALL
SUCH LAWS, ETC. IN FORCE IN BERLIN. AS A GENERAL, PRAC-
TICAL MATTER IF ENFORCEMENT IS TO TAKE PLACE AT ALL, IT WILL BE
PERFORMED BY THE GERMAN AUTHORITIES IN BERLIN.

5. Q: WOULD BRITISH AND FRENCH IN FACT SEIZE AND CONFISCATE
SUCH MAIL?

A: BRITISH AND FRENCH REPRESENTATIVES WHOM WE QUERIED ON THIS
POINT ARE INTELLIGENCE OFFICERS. THEY INDICATED THAT FINAL
DECISION WOULD NOT BE MADE BY THEM BUT BY THEIR POLITICAL
COLLEAGUES. NONETHELESS, BRITISH REPRESENTATIVE OPINED THAT
BRITISH WOULD PROBABLY NOT REPEAT NOT TAKE UNILATERAL MEASURES
AND WOULD NOT REPEAT NOT ORDER SEIZURE IN THE BRITISH SECTOR
IF THE US REFUSED TO DO SO IN US SECTOR. FRENCH REPRE-
SENTATIVE REPORTED THAT NSDAP MATERIAL IN QUESTION WAS
NOT REPEAT NOT BEING SEIZED IN FRENCH SECTOR, BUT WOULD
NOT REPEAT NOT OFFER AN OPINION ON WHETHER FRENCH WOULD
DO SO IN THE FUTURE.

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C O N F I D E N T I A L SECTION 2 OF 2 UWSBERLIN 1813

6. COMMENT: USBERLIN HAS NOT RAISED THIS MATTER AT POLITICAL
LEVEL IN BERLIN. BASED ON PAST EXPERIENCE, WE ASSUME
FRENCH ITELLIGENCE HAS NOT BRIEFED FRENCH POLITICAL
IN BERLIN AND BRITISH INTELLIGENCE MAY HAVE BRIEFED
BRITISH POLITICAL. WE ARE RELUCTANT TO DELAY RESPONDING
TO REFTEL A INQUIREIS FOR THE AMOUNT OF TIME IT WOULD
TAKE FOR A TRIPARTITE DISCUSSION AT POLITICAL LEVEL TO
OCCUR. HOWEVER, SHOULD DEPARTMENT WISH FURTHER VIEWS
ON THIS POINT, USBER WILL RAISE MATTER AT POLITICAL LEVEL.
END COMMENT.

7. Q: WHAT, IN MISSION'S VIEW WOULD BE LEGAL OR POLITICAL DIFFICULTIES WITH RESPECT TO BRITISH AND FRENCH SHOULD US BE OBLIGED FOR CONSTITUTIONAL REASONS TO PREVENT SEIZURE OF US ORIGIN MAIL IN US SECTOR?

A: LEGAL DIFFICULTY FOR BRITISH AND FRENCH WOULD BE THE SAME LEGAL DIFFICULTY FOR US AUTHORITIES IN BERLIN. WE THREE, THE ULTIMATE AUTHORITIES IN BERLIN, WOULD HAVE PREVENTED THE ENFORCEMENT OF LAW IN FORCE IN BERLIN. COSMETICALLY, THE CONTRADICTION WOULD BE ENHANCED BY THE FACT THAT THE LAW IN QUESTION IS ALLIED LEGISLATION. HOWEVER, THIS LEGAL DIFFICULTY WOULD NOT REPEAT NOT CONSTITUTE A LEGAL BAR TO A DECISION BY US NOT TO ENFORCE THE LAW. SINCE THE ALLIES ARE SUPREME IN BERLIN THEY CAN EVEN ORDAIN THAT THE LAW IN FORCE IN BERLIN

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SHALL NOT BE ENFORCED IN PARTICULAR CASES. USBER DOES NOT RECALL ANY PREVIOUS INSTANCES WHEN WE HAVE ORDERED BERLIN AUTHORITIES NOT TO ENFORCE THE LAW, THOUGH THERE ARE NUMEROUS CASES INVOLVING MEMBERS OF THE ALLIED FORCES OR PERSONS EMPLOYED WITH THE FORCES IN WHICH THE ALLIES REFUSE TO PERMIT GERMAN COURTS TO EXERCISE JURISDICTION. THEU AUTHORITY TO DO THE LATTER IS, HOWEVER, EXPRESSLY RESERVED IN ALLIED LEGAISLATION.

POLITICAL DIFFICULTIES, IF ANY, WOULD IN USBER VIEW BE OURS MORE THAN BRITISH OR FRENCH, THOUGH BRITISH AND FRENCH WOULD ALSO BE A TARGET. IF DECISION NOT TO SEIZE MAIL DID NOT BECOME PUBLIC, WE BELIEVE THAT WE WOULD ENCOUNTER SLIGHT POLITICAL DISPLEASURE OF BERLIN AUTHORITIES. THEY WOULD BE DISPLEASED BECAUSE (A) WE WOULD HAVE GIVEN THE MA DIRECTIVE IN CONTRADICTION TO THE ALLIED LEGISLATION THEY ARE OBLIGED TO ENFORCE, AND (B) THE WEST GERMAN POSTAL AUTHORITIES ARE CONFISCATING THE MATERIAL IN QUESTION (WHENEVER LOCATED), AND BERLIN ADMINISTRATION SEEK WHENEVER POSSIBLE TO TAKE MEASURES IN BERLIN IDENTICAL WITH THOSE TAKEN BY ADMINISTRATIONS IN THE FRG.

IF OUR DECISION WERE TO BECOME PUBLIC--WHICH WE CONSIDER LIKELY--WE MIGHT ENCOUNTER SOME POLITCIAL DIFFICULTY ON THE ONE HAND FROM THE BERLIN PUBLIC AND MODERATE TO LIBERAL POLICTIANS AND ON THE OTHER CONSIDERABLY MORE FROM WEST BERLIN COMMUNISTS AND THE SOVIETS. WE WOULD ANTICIPATE THE THEME OF BOTH TO BE THE SAME: THE WESTERN ALLIES ARE ACQUIESCING IN THE IMPORTATION AND DISTRIBUTION OF FASCIST LITERATURE IN BERLIN EVEN THOUGH LAW IN FORCE IN BERLIN AND PROMULGATED BY THE ALLIES PROHIBITS SUCH IMPRTATION AND DISTRIBUTION. (THE TONE OF ANY SOVIET CHARGES WOULD BE HARSHER). THE THREE ALLIES WOULD BE TARGETS OF SUCH ACCUSATIONS, BUT WE SUSPECT THAT THE US WOULD BE THE MAIN TARGET SINCE THE MATERIAL IN QUESTION

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IS US ORIGIN.

8. Q: IS ANY OF THIS MAIL ADDRESSED TO KNOWN US PERSONS?

A: NO. NELSON

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: INTERVENTION, POSTAL SERVICE, PUBLIC CORRESPONDENCE, PRESS CONFERENCES
Control Number: n/a
Copy: SINGLE
Draft Date: 01 aug 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
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Format: TEL
From: USBERLIN
Handling Restrictions: n/a
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Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 78 STATE 185588, 78 USBERLIN 1387, 78 USBERLIN 1630
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 24 jun 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1571502
Secure: OPEN
Status: NATIVE
Subject: SEIZURE AND CONFISCATION OF US ORIGIN MAIL BY BERLIN POSTAL AUTHORITIES
TAGS: PGOV, WB, GC, US, AKB
To: STATE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/d4b11759-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014